

NORMAN MANLEY LAW SCHOOL  
Council of Legal Education

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LEGAL EDUCATION CERTIFICATE EXAMINATIONS 1976

CONVEYANCING AND REGISTRATION OF TITLE

Tuesday, June 15, 1976

Instructions to Students

- a) Time: 3½ hours.
- b) Answer FIVE questions only.
- c) It is unnecessary to transcribe the questions you attempt.

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QUESTION 1.

Ben Brown, the registered proprietor of No.10 Young Close, Kingston, consisting of a four-bedroom house which is registered at Volume 1 Folio 2, has seen the best of his productive years. He consults you and tells you that his son, Dick, is willing to give him \$500 yearly but on condition that he transfers the above property to him (Dick). Ben further tells you that he has no other place to live and that Dick is agreeable to his occupying one of the rooms. Ben wishes to know how he can protect his interest.

- (i) Advise him.
- (ii) Draft the transfer.

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QUESTION 2.

R, the registered proprietor of No.5 Easy Street, registered at Volume 10 Folio 5, has mortgaged his land to M for the sum of \$10,000 with interest at the rate of 12½% per annum. The redemption date has expired and in fact R has repaid the principal sum and all interest due under the mortgage to M. However, despite several attempts to find M in order to obtain a memorandum of discharge, he has been unsuccessful.

(i)/....

- (i) Advise R.
  - (ii) Prepare any documents you consider necessary to assist R in securing the removal of the cloud on his title.
  - (iii) Would your advice be any different if the total principal sum was unpaid and R now wishes to discharge the mortgage?
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QUESTION 3.

Your client, C, proposes to purchase a strip of land along the northern boundary of property belonging to his next door neighbour N. N's title is unregistered and is mortgaged. A plan of the strip of land has been prepared and the parties have agreed that N should have a right of way over the land to be conveyed.

- (a) What, if any, enquiries and searches do you consider are necessary to be made and, if so, from whom and where and when?
  - (b) What drafting considerations would you bear in mind in relation to (i) the description of the land being conveyed having regard to the plan? (ii) the definition of the right of way and those entitled to use it?
  - (c) What provisions would you secure in respect to N's title deeds?
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QUESTION 4.

P has agreed, subject to contract, to purchase a freehold property with vacant possession from V. On receipt of the draft contract, P discovers that V purports to sell as mortgagee under his statutory power of sale.

- (a) To what extent, if at all, does P need to be satisfied about V's right to sell?
  - (b) Is it material to P that the purchase price appears to be below the market value by some 25%?
  - (c) What covenants for title, if any, are implied if V sells "as mortgagee"?
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QUESTION 5.

You act for P who has contracted to purchase a freehold house from G free from encumbrances under an open contract. G's attorney has sent you the draft conveyance for approval along with the following copy documents dated as under:-

- (i) 1940 Conveyance on sale from A to B.
- (ii) 1971 Death certificate of B.
- (iii) 1971 Probate of B's will granted by the Supreme Court to C, D and E.
- (iv) 1971 Conveyance on sale from C, D and E (as B's executors) to E reciting the grant of probate and including a statement that C, D and E had not given or made any previous assent or conveyance.
- (v) 1973 Conveyance on sale from E to F and G as joint tenants beneficially.
- (vi) 1973 Death certificate of F.

Draft a letter to G's attorney raising any requisitions on title as you see fit and suggesting how any apparent defects of title may be satisfactorily remedied.

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QUESTION 6.

John wishes to lend his friend Peter the sum of \$2,000 at 13% rate of interest per annum on the security of Peter's registered title without either of them incurring the expenses of a legal mortgage.

- (a) Advise John as to:-
    - (i) the nature of the mortgage he can be granted;
    - (ii) what, if any, documents are necessary to give effect to the mortgage;
    - (iii) how he can protect his security in relation to its priority;
    - (iv) how he can ensure his right to sell the property in the event of Peter's default.
  - (b) What provisions would you insert in any subsequent legal mortgage to protect John's interest?
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QUESTION 7.

B owns 20 acres of land which is registered at Volume 10 Folio 3 of the Register Book of Titles. He wishes to sub-divide this land into one acre lots for sale and to retain one of the lots on which to build an elegant home for himself.

- (a) What steps should B take to effect the sub-division?
- (b) Draft a form of transfer of one lot to a purchaser, P, (which will be adopted in respect of other purchasers) which will ensure -
  - (i) that the lots be held as one acre lots
  - (ii) that only one residence be erected on each lot not being in the nature of an apartment building or other form of multiple occupancy
  - (iii) that the type of structure to be erected on each lot should be of such that B will maintain a good sale value on his own lot.

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QUESTION 8.

In 1950, T died after making his will in which he appointed E his executor. In his will, T devised his unregistered freehold land, containing approximately 10 acres, as follows:-

"....to A for life, remainder to B for life, remainder to C in fee simple if he outlives B, but if C dies before B then to B in fee simple."

A died in 1960 and C died in 1970. E is still alive. B now wishes to have the land registered in his name.

- (i) What procedures can be adopted?
  - (ii) Make an application on the Form provided and list, in the Schedule thereto, any documents you consider ought to accompany your application.
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